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6 Attorneys for Representative Plaintiff
and the Plaintiff Classes

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**

12 JAMI ZUCCHERO, individually, and on
behalf of all others similarly situated,

13 Plaintiff,

14 v.

15 HEIRLOOM ROSES, INC.,

16 Defendant.

Case No. 4:22-cv-00068-KAW

CLASS ACTION

**PLAINTIFF'S SUPPLEMENTAL BRIEF
ON NOTICE PROCEDURE AND CLASS
ADMINISTRATION**

Date: May 2, 2024

Time: 1:30 p.m.

Dept.: 10B

Judge: Hon. Kandis A. Westmore

21 Representative Plaintiff Jami Zucchero ("Representative Plaintiff"), individually, and on
22 behalf of all others similarly situated, hereby submits this supplemental brief in further support of
23 her Motion for an Order: (1) granting final approval of class action settlement agreement, (2)
24 awarding attorneys' fees and costs to Class Counsel, (3) awarding the service award to
25 Representative Plaintiff, and (4) awarding reimbursement of settlement administration fees and
26 costs.

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1 I. UPDATE ON NOTICE AND CLAIMS ADMINISTRATION

2 The Notice Program began on December 22, 2023 when Settlement Administrator CPT
3 Group disseminated the Email Notice to 47,588 Settlement Class Members for whom Defendant
4 provided a valid email address, attached hereto as **Exhibit A**. On December 22, 2023, CPT Group
5 also mailed the Postcard Notice to 4,320 Settlement Class Members who had a valid mailing
6 address but no valid email address, attached hereto as **Exhibit B**.

7 The deadline for Class Members to submit a Claim was March 21, 2024, and the deadline
8 for Class Members to submit objections and requests for exclusion was February 13, 2024.

9 To date, CPT Group has received a total of 311 Claims, 38 of which are deficient in one or
10 more ways. CPT Group addressed the deficient claims by sending claimants a letter providing
11 clear instruction on how to cure the deficiency. The letter was sent by email, if available, or by
12 mail if only a physical address was available. Claimants were given a period of 21 days from
13 receiving Notice to cure the deficiencies. One claimant requested to be excluded while no
14 claimants objected.

15 Filed concurrently herewith is the Supplemental Declaration of Carole Thompson on
16 Behalf of the Settlement Administrator regarding Class Administration (“Supp. Thompson
17 Decl.”).

19 II. CONCLUSION

20 While Class Counsel has no control over why and/or whether Class Members filed claims,
21 it ensured the most robust possible Notice Program so as to give all claimants a chance to do so.
22 For all the reasons stated in her Motion for Final Approval and the supplemental brief, Plaintiff
23 respectfully requests the Court grant her Motion and the [Proposed] Final Approval Order.

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1 Dated: April 30, 2024

COLE & VAN NOTE

2 By: /s/ Scott Edward Cole
3 Scott Edward Cole, Esq.

4 Attorney for Representative Plaintiff and the
5 Plaintiff Class
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EXHIBIT A

To: [Class Member Email Address]

From: HeirloomRosesSettlement@cptgroup.com

Subject: Notice of Class Action Settlement – Heirloom Roses, Inc. Data Security Incident

Body of Email:

If you were notified of a Data Security Incident involving Heirloom Roses, Inc., you may be entitled to benefits from a settlement.

A proposed settlement has been reached in a class action lawsuit against Heirloom Roses, Inc. (“Heirloom”) related to a security incident that occurred between February and October 2021, and about which Heirloom notified potentially impacted individuals in or around December 2021. The lawsuit claims Heirloom is legally responsible for the Data Security Incident, where names and payment card information of customers may have been accessed and exfiltrated by unauthorized individuals. The lawsuit asserts various legal claims, including negligence and breach of implied contract. Heirloom denies these claims and denies it did anything wrong.

You are receiving this notice because you may be a Settlement Class Member. The Settlement Class is defined by the Court as all individuals within the United States whose name and payment card information was potentially exposed to unauthorized third-parties as a result of the Data Security Incident that occurred between approximately February to October of 2021

Under the terms of the settlement, if you experienced unreimbursed, unauthorized or fraudulent charges or out of pocket expenses which you believe in good faith were fairly traceable to the Data Security Incident, you may file a claim for a Reimbursement Award of up to \$200.

The easiest way to submit a claim is online at **www.HeirloomRosesSettlement.com** using your Unique CPT ID and Passcode found below. To be eligible, you must complete and submit a valid Claim Form, postmarked or submitted online on or before **March 21, 2024**. You can also exclude yourself or object to the Settlement on or before **February 13, 2024**. If you do not exclude yourself from the Settlement, you will remain in the Class and will give up the right to sue Heirloom over the claims resolved in the Settlement. **A summary of your rights under the Settlement and instructions regarding how to submit a claim, exclude yourself or object are available at www.HeirloomRosesSettlement.com.**

Please use the following CPT ID and PASSCODE to submit your Claim Form on the website.

CPT ID: <<ID>>

Passcode: <<Passcode>>

Submit Claim

The Court will hold a Final Approval Hearing on **May 2, 2024, at 1:30 p.m. (PT)**. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court will also listen to people who have asked to speak at the hearing. You may attend the hearing at your own expense or pay your own lawyer to attend, but it is not necessary. It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check **www.HeirloomRosesSettlement.com**.

This notice is a summary. The Settlement Agreement and more information about the lawsuits and Settlement are available at **www.HeirloomRosesSettlement.com** or by calling toll-free **1-888-433-0449**.

EXHIBIT B

A proposed settlement has been reached in a class action lawsuit against Heirloom Roses, Inc. ("Heirloom") related to a security incident that occurred between February and October 2021, and about which Heirloom notified potentially impacted individuals on or around December 2021. The lawsuit claims Heirloom is legally responsible for the Data Security Incident, where names and payment card information of customers may have been accessed and exfiltrated by unauthorized individuals. The lawsuit asserts various legal claims, including negligence and breach of implied contract. Heirloom denies these claims and denies it did anything wrong.

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PLACE
STAMP
HERE

Zuccherro v. Heirloom Roses, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

If you were notified of a Data Security Incident involving Heirloom Roses, Inc., you may be entitled to benefits from a settlement.

Please use the CPT ID and Passcode located above your mailing address to access your Claim Form on the Settlement Website.

Zuccherro v. Heirloom Roses, Inc.
 c/o CPT Group, Inc.
 50 Corporate Park
 Irvine, CA 92606

PRESORTED
 First Class
 US Postage
 PAID
 PBPS

ELECTRONIC SERVICE REQUESTED

CPT ID: «ID»
 Passcode: «Passcode»
 «FullName»
 «Address1»
 «City», «State» «Zip»
 «IMBarcode»

CHANGE OF ADDRESS FORM

Please provide your correct name and current address (if different) here and return the postcard.

THIS SUBMISSION IS ONLY FOR AN ADDRESS UPDATE. IT DOES NOT CONSTITUTE A SUBMISSION OF A CLAIM.

CPT ID: «ID»
 Former Name _____
 New Name _____
 Address _____
 City, State, Zip _____

CERTIFICATE OF SERVICE

I hereby certify that, on April 30, 2024, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify the foregoing document is being served today on all counsel of record in this case via transmission of Notice of Electronic Filing generated by CM/ECF and on counsel in the related cases to their respective emails per the below service list.

/s/ Scott Edward Cole
Scott Edward Cole, Esq.